

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

HORTON HOMES, INC.,

Plaintiff,

V.

Case No.

LARUE BANDY, MARIE BANDY, PATRICK PRITCHETT, WILLIAM SHANER, ELSIE FONDREN AVERETTE, WILLIAM CRUTHIRDS, and SHERRIE CRUTHIRDS,

2:07-CV-506-MEF

Defendants.

**MOTION TO RESCHEDULE
HEARING ON PRELIMINARY INJUNCTION**

Plaintiff Horton Homes, Inc. (“Horton Homes”), moves the court for an order rescheduling the October 12, 2007 hearing on Horton Homes’ motion for preliminary injunction on the following grounds:

Horton Homes' principal and indispensable witness at the scheduled hearing is Mr. Dudley Horton, the President and principal owner of Horton Homes. On October 10, 2007, Mr. Horton developed an incapacitating malfunction of his kidneys, for which he is presently undergoing diagnostic procedures, and receiving medical treatment which may involve hospitalization. Mr. Horton's treating physician has strongly advised against Mr. Horton's travel to Montgomery at this time for his scheduled participation in this case. Given the inability of its principal

witness to attend the October 12 hearing, Horton Homes is compelled to request that the matter be continued and rescheduled on a date convenient with the court's calendar and subsequent to Mr. Horton's recovery from his current condition.

This 11th day of October, 2007.

/s/ Sydney F. Frazier, Jr.

Sydney F. Frazier, Jr. (FRA007)

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing MOTION TO RESCHEDULE HEARING ON PRELIMINARY INJUNCTION has been filed using the CM/ECF system and will be served by the system on:

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This 11th day of October, 2007.

/s/ Sydney F. Frazier, Jr.